HOUSE BILL No. 1323

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-11-10; IC 27-13-15-5.

Synopsis: Dialysis treatment coverage. Specifies requirements for an accident and sickness insurer and a health maintenance organization with respect to providing coverage for dialysis treatment, including payment rates, changes in coverage, networks of dialysis treatment providers, and filings.

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Effective: July 1, 2008.

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January 15, 2008, read first time and referred to Committee on Insurance.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1323

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A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

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Be it enacted by the General Assembly of the State of Indiana:

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used in this	section,	"insured"	refers	only	to	an	insured	who
1, 2008]: Sec	. 10. (a) I	Notwithstar	iding se	ection	1 o	f th	is chapte	er, as
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SECTION	N 1. IC 27-	8-11-10 IS A	DDED	TO T	HE	INI	DIANA C	ODE
	AS A NEW S 1, 2008]: Sec	AS A NEW SECTION 1, 2008]: Sec. 10. (a) I	AS A NEW SECTION TO READ A 1, 2008]: Sec. 10. (a) Notwithstar	AS A NEW SECTION TO READ AS FOLD 1, 2008]: Sec. 10. (a) Notwithstanding se	AS A NEW SECTION TO READ AS FOLLOWS 1, 2008]: Sec. 10. (a) Notwithstanding section	AS A NEW SECTION TO READ AS FOLLOWS [E 1, 2008]: Sec. 10. (a) Notwithstanding section 1 o	AS A NEW SECTION TO READ AS FOLLOWS [EFFE 1, 2008]: Sec. 10. (a) Notwithstanding section 1 of th	SECTION 1. IC 27-8-11-10 IS ADDED TO THE INDIANA C AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE J 1, 2008]: Sec. 10. (a) Notwithstanding section 1 of this chapte used in this section, "insured" refers only to an insured

- (b) As used in this section, "insurer" includes the following:
 - (1) An administrator licensed under IC 27-1-25.
 - (2) An agent of an insurer.
- (c) As used in this section, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.
- (d) An insurer may not establish a payment rate to be paid for a health care service rendered by a dialysis treatment provider that has not entered into an agreement with the insurer under this chapter unless the insurer does the following:
 - (1) Consults and comes to an agreement with the dialysis treatment provider concerning the payment rate.
 - (2) Establishes the payment rate considered to be reasonable



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1	and customary for the health care service, based on factors	
2	that include the following:	
3	(A) The type of health care service rendered.	
4	(B) The fees usually charged by the dialysis treatment	
5	provider.	
6	(C) The prevailing rate paid to a dialysis treatment	
7	provider for the health care service in the geographic area.	
8	(D) The economics of the dialysis treatment provider's	
9	practice.	
10	(3) Does not consider Medicare and Medicaid payment rates.	
11	(4) Sets the payment rate at an amount that is equal to or	
12	greater than the payment rate that applies to a dialysis	
13	treatment provider that has entered into an agreement with	
14	the insurer under this chapter.	
15	(e) An insurer may not do any of the following at any time after	
16	the open enrollment period during which the insured becomes	
17	covered under a group policy of accident and sickness insurance:	
18	(1) Restrict benefits or increase costs to an insured in relation	
19	to dialysis treatment, unless the insured becomes eligible for	
20	Medicare.	
21	(2) Change coverage or benefits in any way that would affect	
22	dialysis treatment, unless the insurer, not later than one	
23	hundred eighty (180) days before the change becomes	
24	effective, provides written notice of the change to the insured	
25	and dialysis treatment provider, including a description of	
26	the:	
27	(A) rationale for the change;	•
28	(B) proposed effect of the change on coverage of dialysis	
29	treatment; and	
30	(C) methodology used to determine a proposed payment	
31	rate change.	
32	(f) An insurer may not attempt to facilitate coverage of an	
33	insured under the Medicare program and may not change the	
34	insured's coverage under any policy of accident and sickness	
35	insurance from primary coverage to secondary or supplemental	
36	coverage.	
37	(g) An insurer may not:	
38	(1) require an insured, as a condition of coverage, to travel	
39	more than fifteen (15) miles or for longer than thirty (30)	
40	minutes from the insured's home to obtain dialysis treatment;	
41	or	
42	(2) if a dialysis treatment provider that has entered into an	



1	agreement with the insurer under this chapter is not available
2	within the distance or time specified in subdivision (1), require
3	the insured to pay a higher cost for dialysis treatment
4	provided within the distance or time specified in subdivision
5	(1) by a dialysis treatment provider that has not entered into
6	an agreement with the insurer under this chapter.
7	(h) An insurer shall pay a dialysis treatment provider that:
8	(1) has not entered into an agreement with the insurer under
9	this chapter; and
10	(2) provides dialysis treatment to an insured as described in
11	subsection (g)(2);
12	the same amount that the insurer would pay to a dialysis treatment
13	provider that has entered into an agreement with the insurer under
14	this chapter.
15	(i) Regardless of whether a dialysis treatment provider has
16	entered into an agreement under this chapter with an insurer, the
17	following apply:
18	(1) An insurer shall pay only the dialysis treatment provider
19	and not the insured.
20	(2) An insurer or a dialysis treatment provider shall not
21	involve an insured in a payment dispute between the insurer
22	and dialysis treatment provider.
23	(3) An insurer shall honor an insured's assignment of benefits
24	under a policy of accident and sickness insurance to a dialysis
25	treatment provider.
26	(4) An insurer shall not question the appropriateness of a
27	physician's treatment of an insured.
28	(j) The following apply to an insurer's network of all dialysis
29	treatment providers that have entered into an agreement with the
30	insurer under this chapter:
31	(1) The insurer shall file with the department an annual
32	evaluation of whether the network is sufficient to provide
33	health care services to insureds covered under a policy of
34	accident and sickness insurance issued by the insurer. The
35	commissioner shall, not more than thirty (30) days after
36	receiving a filing under this subdivision, approve the filing or
37	make recommendations for changes to the network.
38	(2) Before any proposed change to the network, the insurer
39	shall:
40	(A) file with the department an analysis of the manner in
41	which the proposed change will affect insured access to

dialysis treatment, quality of care, and premium rates; and



1	(B) demonstrate to the commissioner that the proposed	
2	change will not result in a shift of coverage from	
3	commercial health coverage to government funded	
4	coverage for insureds who will be affected by the proposed	
5	change.	
6	(3) The insurer may not implement a proposed change	
7	described in subdivision (2) until the commissioner approves	
8	the proposed change.	
9	(4) The network must at all times include not less than seventy	
10	percent (70%) of the dialysis treatment providers in Indiana.	
11	(5) If the network at any time does not meet the requirement	
12	of subdivision (1), any agreement entered into between a	
13	dialysis treatment provider and the insurer in Indiana is void.	
14	(k) The department may adopt rules under IC 4-22-2 to	
15	implement this section.	
16	SECTION 2. IC 27-13-15-5 IS ADDED TO THE INDIANA CODE	
17	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY	
18	1, 2008]: Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this	
19	section, "enrollee" refers only to an enrollee who requires dialysis	
20	treatment.	
21	(b) As used in this section, "health maintenance organization"	
22	includes the following:	
23	(1) A limited service health maintenance organization.	
24	(2) An agent of a health maintenance organization or a limited	_
25	service health maintenance organization.	
26	(c) A health maintenance organization may not establish a	
27	payment rate to be paid for a health care service rendered by a	
28	dialysis treatment provider that is not a participating provider	v
29	unless the health maintenance organization does the following:	
30	(1) Consults and comes to an agreement with the dialysis	
31	treatment provider concerning the payment rate.	
32	(2) Establishes the payment rate considered to be reasonable	
33	and customary for the health care service, based on factors	
34	that include the following:	
35	(A) The type of health care service rendered.	
36	(B) The fees usually charged by the dialysis treatment	
37	provider.	
38	(C) The prevailing rate paid to a dialysis treatment	
39	provider for the health care service in the geographic area.	
40 4.1	(D) The economics of the dialysis treatment provider's	
41 42	practice.	
12	(3) Does not consider Medicare and Medicaid payment rates.	



1	(4) Sets the payment rate at an amount that is equal to or	
2	greater than the payment rate that applies to a dialysis	
3	treatment provider that is a participating provider.	
4	(d) A health maintenance organization may not do any of the	
5	following at any time after the open enrollment period during	
6	which the enrollee becomes covered under a group contract:	
7	(1) Restrict benefits or increase costs to an enrollee in relation	
8	to dialysis treatment, unless the enrollee becomes eligible for	
9	Medicare.	
10	(2) Change coverage or benefits in any way that would affect	4
11	dialysis treatment, unless the health maintenance	
12	organization, not later than one hundred eighty (180) days	•
13	before the change becomes effective, provides written notice	
14	of the change to the enrollee and dialysis treatment provider,	
15	including a description of the:	
16	(A) rationale for the change;	4
17	(B) proposed effect of the change on coverage of dialysis	
18	treatment; and	
19	(C) methodology used to determine a proposed payment	
20	rate change.	
21	(e) A health maintenance organization may not attempt to	
22	facilitate coverage of an enrollee under the Medicare program and	
23	may not change the enrollee's coverage under any individual	
24	contract or group contract from primary coverage to secondary or	
25	supplemental coverage.	
26	(f) A health maintenance organization may not:	
27	(1) require an enrollee, as a condition of coverage, to travel	
28	more than fifteen (15) miles or for longer than thirty (30)	
29	minutes from the enrollee's home to obtain dialysis treatment;	
30	or	
31	(2) if a dialysis treatment provider that is a participating	
32	provider is not available within the distance or time specified	
33	in subdivision (1), require the enrollee to pay a higher cost for	
34	dialysis treatment provided within the distance or time	
35	specified in subdivision (1) by a dialysis treatment provider	
36	that is not a participating provider.	
37	(g) A health maintenance organization shall pay a dialysis	
38	treatment provider that:	
39	(1) is not a participating provider; and	
40	(2) provides dialysis treatment to an enrollee as described in	
41	subsection (f)(2);	
42	the same amount that the enrollee would pay to a dialysis	



(h) Regardless of whether a dialysis treatment provider is a participating provider, the following apply: (1) A health maintenance organization shall pay only the dialysis treatment provider and not the enrollee. (2) A health maintenance organization or a dialysis treatment provider shall not involve an enrollee in a payment dispute between the health maintenance organization and dialysis treatment provider. (3) A health maintenance organization shall honor an enrollee's assignment of benefits under an individual contract or group contract to a dialysis treatment provider. (4) A health maintenance organization shall not question the appropriateness of a physician's treatment of an enrollee. (i) The following apply to a health maintenance organization's network of all dialysis treatment providers that are participating providers: (1) The health maintenance organization shall file with the department an annual evaluation of whether the network is sufficient to provide health care services to enrollees covered under an individual contract or a group contract entered into by the health maintenance organization. The commissioner shall, not more than thirty (30) days after receiving a filing under this subdivision, approve the filing or make recommendations for changes to the network, the health maintenance organization shall: (A) file with the department an analysis of the manner in which the proposed change to the network, the health maintenance organization shall: (A) file with the department an analysis of the manner in which the proposed change to the network the proposed change will affect enrollee access to dialysis treatment, quality of care, and premium rates; and (B) demonstrate to the commissioner that the proposed change will not result in a shift of coverage from commercial health coverage to government funded coverage for enrollees who will be affected by the proposed change. (3) The health maintenance organization may not implement a proposed change described in subdivision (2) until the commi			
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11 (5) II the network at any time goes not meet the requirement	1	(5) If the network at any time does not meet the requirement	
of subdivision (1), any agreement entered into between a		* *	



1	dialysis treatment provider and the health maintenance
2	organization in Indiana is void.
3	(j) The department may adopt rules under IC 4-22-2 to
4	implement this section.
5	SECTION 3. [EFFECTIVE JULY 1, 2008] (a) The department of
6	insurance shall, not later than December 31, 2008, conduct a
7	comprehensive review of filings made with the department of
8	insurance:
9	(1) by an insurer described in IC 27-8-11, as amended by this
10	act, to determine compliance with IC 27-8-11, as amended by
11	this act; and
12	(2) by a health maintenance organization described in
13	IC 27-13-15-5, as added by this act, to determine compliance
14	with IC 27-13-15-5, as added by this act.
15	(b) If the department of insurance determines that an insurer or
16	health maintenance organization is not in compliance, as described
17	in subsection (a), the department of insurance shall notify the
18	insurer or health maintenance organization of the noncompliance,
19	and the insurer or health maintenance organization shall prove
20	compliance not later than sixty (60) days after the insurer or health
21	maintenance organization receives notice of noncompliance under
22	this subsection.
23	(c) An insurer described in IC 27-8-11, as amended by this act,
24	and a health maintenance organization described in IC 27-13-15-5,
25	as added by this act, shall do the following:
26	(1) The insurer shall inform the department of insurance of
27	any violation by the insurer of IC 27-8-11, as amended by this
28	act, and correct the violation not later than sixty (60) days
29	after providing notice to the department of insurance under
30	this subdivision.
31	(2) The health maintenance organization shall inform the
32	department of insurance of any violation by the health
33	maintenance organization of IC 27-13-15-5, as added by this
34	act, and correct the violation not later than sixty (60) days
35	after providing notice to the department of insurance under
36	this subdivision.
37	(d) Failure of an insurer or a health maintenance organization
38	to comply with subsection (b) or (c) of this SECTION is an unfair
39	and deceptive act or practice in the business of insurance under
40	IC 27-4-1-4.
41	SECTION 4. [EFFECTIVE JULY 1, 2008] (a) IC 27-8-11-10, as
42	added by this act, annlies to an agreement between an insurer and



a dialysis	treatment	provider	that is	entered	into,	amended,	or
renewed or	n or after J	June 30, 2	008.				

(b) IC 27-13-15-5, as added by this act, applies to a contract between a health maintenance organization and a dialysis treatment provider that is entered into, amended, or renewed after June 30, 2008.

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